

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NAZOKAT ATAKHANOVA, individually and
on behalf of all others similarly situated,

Plaintiff,

- against -

HOME FAMILY CARE INC.

Defendant.

16-cv-6707 (KAM)(RML)

**[PROPOSED] ORDER ON PLAINTIFFS' MOTION TO CONDITIONALLY CERTIFY
A FAIR LABOR STANDARDS ACT COLLECTIVE ACTION AND AUTHORIZE
NOTICE TO BE ISSUED TO ALL PERSONS SIMILARLY SITUATED**

THE COURT HEREBY ORDERS that Plaintiffs' Motion is GRANTED upon consent, and FURTHER ORDERS that:

1. The collective action notice entitled "NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN" and the "CONSENT TO BECOME A PARTY PLAINTIFF," attached hereto as Exhibit "A" and Exhibit "B," respectively, are hereby approved for mailing to potential plaintiffs;
2. The collective class of potential plaintiffs in this matter shall consist of all current and former home health aides employed by Home Family Care Inc., who worked over 40 hours in any work week or "live-in" home health aides who worked 4 days or more in any work week from January 1, 2015.
3. Defendants shall provide to Plaintiff, within ten (10) days following the date of this Order, the names, addresses and phone numbers of all potential plaintiffs who worked in the above positions from on or after January 1, 2015 to _____. [date of this Order] This information shall be supplied in paper form and digitally in Microsoft Excel;
4. Plaintiff's counsel shall mail the notice of collective action to all potential plaintiffs no later than fourteen (14) days following Defendants' disclosure of the contact information for the potential plaintiffs;
5. Plaintiff is permitted to mail the "DEADLINE REMINDER LETTER" in the form attached hereto as Exhibit "C" to all potential plaintiffs prior to the termination of the opt-in period;
6. Plaintiff is permitted to translate (i) the "NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN," attached hereto as Exhibit "A", (ii) the "CONSENT TO BECOME A PARTY PLAINTIFF" form, attached hereto as Exhibit "B", and (iii) the "DEADLINE REMINDER LETTER" into Russian within 10 days following the date of this order and include the translated

documents with the mailings described herein.

7. All potential plaintiffs must opt-in no later than 60 days after the date of the mailing of the notice, by returning the executed form entitled “CONSENT TO BECOME A PARTY PLAINTIFF” to Plaintiff’s counsel before that date. Plaintiff’s counsel shall thereupon promptly file such executed consents with the Court.

DATED this day of _____, 2017

HONORABLE ROBERT M. LEVY
UNITED STATES MAGISTRATE JUDGE

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NAZOKAT ATAKHANOVA, individually and
on behalf of all others similarly situated,

Plaintiff,

- against -

HOME FAMILY CARE INC.

Defendant.

16-cv-6707 (KAM)(RML)

NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN

FROM: NAYDENSKIY LAW GROUP, P.C.

517 Brighton Beach Ave, 2nd Fl.,
Brooklyn, New York, 11235
Telephone: (718) 808-2224
[Email:Naydenskiylaw@gmail.com](mailto:Naydenskiylaw@gmail.com)

TO: All current and former home health aides employed by Home Family Care Inc., who worked over 40 hours in any work week or “live-in” home health aides who worked 4 days or more in any work week from January 1, 2015. to _____
[Insert date of Order granting 216(b)].

RE: Opportunity to join a lawsuit asserting violations of the Fair Labor Standards Act and New York Labor Laws against HOME FAMILY CARE INC. (“Defendant”) for their alleged failure to pay the appropriate overtime premium compensation for all hours worked over forty (40) in a given workweek, as well as claims for hiring notice violations under New York State Law.

I. INTRODUCTION

The purpose of this notice is to inform you of the existence of a collective action lawsuit in which you potentially are “similarly situated” to the named plaintiff, to advise you of how your rights may be affected by this lawsuit and to instruct you on the procedure for participating in this lawsuit. The lawsuit at issue was filed on December 4, 2016 against defendant in the United States District Court for the Eastern District of New York. The plaintiffs allege that the defendants violated the Federal Fair Labor Standards Act and the New York Labor Laws by improperly paying overtime premiums for all hours worked in excess of forty (40) per week. The lawsuit also seeks damages for hiring notice violations pursuant to the New York Labor Laws, and seeks back pay and liquidated damages, as well as costs and attorneys’ fees.

II. YOUR RIGHT TO PARTICIPATE IN THE LITIGATION

If you fit within the definition above, you may join this case. In order to join this case (that is, to “opt-in”), you **must** sign the attached “Consent to Become a Party Plaintiff” form and return it to the lawyers who are representing the plaintiffs no later than _____. [Insert date 60 days after the date of the mailing] If you sign and return the attached form, you will be represented by plaintiffs’ counsel at the following address:

NAYDENSKIY LAW GROUP P.C.
517 Brighton Beach Ave, 2nd Fl.
Brooklyn, New York 11235
Telephone: (718) 808 2224
Email:Naydenskiylaw@gmail.com

Your form must be sent to plaintiffs’ counsel at the above address in sufficient time to have plaintiffs’ counsel file it with the federal court on or before _____. [Insert the date 60 days after the date of the mailing] If you fail to return the Consent to Become a Party Plaintiff form to plaintiffs’ counsel in time for it to be filed with the federal court on or before the above deadline, you may not be able to participate in this lawsuit. Furthermore, you can join this lawsuit by counsel of your own choosing. If you do so, your attorney must file an “opt-in” consent form by _____[Insert date that is 60 days after the date of the mailing].

III. EFFECT OF JOINING THIS ACTION

If you choose to join in this case, you will be bound by the Judgment, whether it is favorable or unfavorable. The attorneys for the collective action plaintiffs are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorneys’ fees. If there is a recovery, the attorneys for the collective action will receive a part of any settlement obtained or money judgment entered in favor of all members of the collective action. If you sign and return the Consent to Become a Party Plaintiff form attached to this Notice, you are agreeing to designate the collective action representatives as your agents to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with plaintiffs’ counsel concerning attorneys’ fees and costs, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the representative plaintiffs will be binding on you if you join this lawsuit. However, the Court has retained jurisdiction to determine the reasonableness of any contingency agreement entered into by the plaintiffs with counsel, and to determine the adequacy of the plaintiffs’ counsel.

IV. NO RETALIATION PERMITTED

Federal law prohibits HOME FAMILY CARE INC. from taking any retaliatory action against any person, including current employees, who joins or assists in the prosecution of this case. Defendant is prohibited by law from retaliating against you for exercising your rights under the Fair Labor Standards Act or New York Labor Laws.

V. FURTHER INFORMATION

Further information about this Notice, the deadline for filing a Consent to Become a Party Plaintiff, or answers to questions concerning this lawsuit may be obtained by contacting Plaintiffs' counsel: (a) by telephone at (718) 808-2224; (b) Email: Naydenskiylaw@gmail.com; or (c) in writing at NAYDENSKIY LAW GROUP P.C. 517 Brighton Beach Avenue, 2nd Fl., Brooklyn, New York 11235.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, THE HONORABLE ROBERT M. LEVY, UNITED STATES MAGISTRATE JUDGE. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR OF THE DEFENDANTS' DEFENSES.

DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE.

DATED: _____, 2017

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NAZOKAT ATAKHANOVA, individually and
on behalf of all others similarly situated,

16-cv-6707 (KAM)(RML)

Plaintiff,

- against -

HOME FAMILY CARE INC.

Defendant.

CONSENT TO BECOME A PARTY PLAINTIFF

By my signature below, I hereby authorize the filing and prosecution of the above styled Fair Labor Standards Act action in my name and on my behalf by the representative Nazokat Atakhanova as my agent to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation and all other matters pertaining to this lawsuit. I understand that I will be represented by Naydenskiy Law Group, P.C. without prepayment of costs or attorneys' fees. I understand that if plaintiffs are successful, costs expended by attorneys on my behalf will be deducted from my settlement or judgment first. I understand that my attorneys may petition the court for an award of fees and costs to be paid by defendant on my behalf. I understand that the amount of the fees will be approximately 1/3 of my total settlement or judgment, or such other amount as approved by the Court.

Printed Name

Signature

Date

Street Address

Email Address

Telephone

City, State, Zip code

Approximate Dates of Employment

PLEASE RETURN THIS FORM FOR FILING WITH THE COURT BY **160 days from date of mailing** TO:

NAYDENSKIY LAW GROUP, P.C.
Gennadiy Naydenskiy (GN5601)
517 Brighton Beach Ave, 2nd Fl.
Brooklyn, NY 11235
(718) 808-2224
naydenskiylaw@gmail.com

EXHIBIT C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NAZOKAT ATAKHANOVA, individually and
on behalf of all others similarly situated,

16-cv-6707 (KAM)(RML)

Plaintiff,

- against -

HOME FAMILY CARE INC.

Defendant.

REMINDER - DEADLINE TO JOIN LAWSUIT IS [insert close of opt-in period date]

This letter is to remind you that the deadline to opt-in to the wage and hour lawsuit currently pending against HOME FAMILY CARE INC. is _____ [insert close of opt-in period date]. If you want to participate in the lawsuit, as detailed in the prior "Notice of Lawsuit with Opportunity to Join" letter that you should have received dated _____, please complete the attached "Consent to Become A Party Plaintiff" form and return to:

NAYDENSKIY LAW GROUP, P.C.

517 Brighton Beach Ave, 2nd Fl.,

Brooklyn, New York, 11235

Telephone: (718) 808-2224

Email: Naydenskiylaw@gmail.com

Further information about this Notice, the deadline for filing a Consent to Become a Party Plaintiff, or answers to questions concerning this lawsuit may be obtained by contacting Plaintiffs' counsel: (a) by telephone at (718) 808-2224; (b) Email: Naydenskiylaw@gmail.com; or (c) in writing at NAYDENSKIY LAW GROUP P.C. 517 Brighton Beach Ave, 2nd Fl., Brooklyn, New York 11235.

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Questions? Please call Naydenskiy Law Group P.C. at (718) 808-2224